



August 3, 2026

Daniel Pliley, District Ranger
West Fork Ranger District
6735 West Fork Road
Darby, MT 59829

Re: Comments and concerns regarding US Critical Materials Corp., Sheep Creek Exploration Project, Plan of Operations, and Categorical Exclusion

Dear Ranger Pliley:

Montana Trout Unlimited (MTU), Trout Unlimited (TU) and the Bitterroot chapter of TU (BRTU) appreciate the opportunity to provide comments and share our organizations' concerns regarding the Plan of Operations (the Plan) for mine exploration activities submitted to the Bitterroot National Forest by U.S. Critical Materials Corp (USCM), and especially the current decision by the U.S. Forest Service (USFS) to grant a Categorical Exclusion (CE) for the Plan, rather than conduct an Environmental Assessment (EA). The Plan generally describes the company's intended mine exploration activities in the upper reaches of the Sheep Creek tributary to the West Fork of the Bitterroot River, which is a very high value native westslope cutthroat trout (WCT) and bull trout stream. It includes little to no characterization of the adjacent surface water, potentially impacted groundwater, or the fishery that activities associated with the Plan could impact. Moreover, it fails to provide any data on other critical factors, such as geochemical data from previous sampling on the orebody that is the target of exploration. Thus, the Plan is utterly deficient in providing the information needed to assess the potential environmental impacts of mine exploration. As such, we strongly recommend that the USFS require an Environmental Assessment be performed for this Plan, including the requisite, official public comment period.

As background, we have a substantial long-term investment in the Bitterroot watershed. The Bitterroot chapter of Trout Unlimited (BRTU), as one of the state's 13 such TU chapters, helped form MTU decades ago. In close partnership, BRTU, TU, and MTU have carried out our mission to conserve, protect and restore coldwater fisheries and their habitats in the Bitterroot through efforts to ensure public access, to contribute to stream restoration projects both on and off Forest lands, to help negotiate instream flow rights for the Bitterroot from Painted Rocks dam on the West Fork of the Bitterroot, and to support a full-time TU project manager in the watershed. We have also supported the identification and conservation of key native trout populations,

such as the WCT and ESA-listed bull trout that occupy and spawn in Sheep Creek and connected tributaries. Our more than 5,000 supporters in Montana care deeply about this place and its aquatic resources.

Directly to the question of whether the Plan merits a Categorical Exclusion, we read the answer as ‘no’ according to the 2018 National Environmental Policy Act Handbook, Chapter 30 – Categorical Exclusions (FSH 1909.15). This document is unequivocal that: “A proposed action may be categorically excluded from further analysis and documentation in an EIS or EA only if there are no extraordinary circumstances related to the proposed action.” Extraordinary circumstances include:

- (1) Federally listed threatened or endangered species or designated critical habitat, species proposed for Federal listing or proposed critical habitat, or Forest Service sensitive species;
- (2) Flood plains, wetlands, or municipal watersheds;
- (3) Congressionally designated areas, such as wilderness, wilderness study areas, or national recreation areas;
- (4) Inventoried roadless areas or potential wilderness areas;
- (5) Research natural areas;
- (6) American Indians and Alaska Native religious or cultural sites, and
- (7) Archaeological sites, or historic properties or areas.

The FSH 1909.15 does allow for the professional judgment of USFS officials in determining if an extraordinary circumstance exists, warranting an EA or Environmental Impact Statement. Specifically,

In considering extraordinary circumstances, the responsible official should determine whether or not any of the listed resources are present, and if so, the degree of the potential effects on the listed resources. If the degree of potential effect raises uncertainty over its significance, then an extraordinary circumstance exists, precluding use of a categorical exclusion.

We strongly believe that the westslope cutthroat trout and bull trout populations (details in our letter below) constitute “listed resources” that are present in the area of potential impact from the USCM Plan of Operations. As per our comments below, we are equally adamant that the “potential effect” of the Plan “raises uncertainty over its significance.” Furthermore, the necessity for an EA in such circumstances is NOT dependent on USFS officials being certain that the proposed action will impact a listed resource. Rather, an EA is warranted and, in fact, required (according to the language of the FSH 1909.15) if there is the possibility of impact to a listed resource. That is one of the primary purposes of an EA, to help understand the potential and severity of such an impact. The USFS has an independent obligation to ensure that sufficient information exists before the agency can rely on a categorical

exclusion. Where there is insufficient information or uncertainty as to the impact of a project, the required course of action is to remedy that lack of information or uncertainty through an EA. As it is stated in the FSH 1909.15: “If the responsible official determines, based on scoping, that it is uncertain whether the proposed action may have a significant effect on the environment, prepare an EA.” We unequivocally believe that the scoping comments herein raise the appropriate level of uncertainty, for which an EA is necessary.

There is no indication of why exactly this project is being evaluated under a CE. The USFS has not indicated what evidence it relied upon in its decision to initially review this project under a CE, including any biological, hydrological, or geochemical analysis. Nor is it clear how the USFS has determined that no extraordinary circumstances exist that would merit an EA. Without those analyses and the underlying data, the administrative record is utterly deficient.

Further, we ask the USFS to consider whether exploration at the proposed level is an attempt to bypass more stringent permitting and analysis, and whether segmentation and phased permitting will follow. We also note that there is no discussion of whether the impacts of this project will combine with the cumulative effects of previous mining and mining exploration activities, drought conditions in the Bitterroot Basin, increased wildfire risk, and future exploration phases and foreseeable mine development. The impacts of this project cannot be evaluated in a vacuum, and an EA is required in order to determine how this project’s effects will combine with those of other activities, with a likely magnified effect on the resources addressed in these comments. The exploration proposed in the Plan cannot be artificially separated from foreseeable future exploration, foreseeable mining operations, and the legacy impacts of other activities in Sheep Creek and the Bitterroot watershed.

While our organizations’ mission does not cover these topics or concerns, we are also aware of other sensitive wildlife and cultural significance, as well as the need for tribal consultation in regard to the USCM Plan, which further demonstrate the need for an EA.

Water Quantity

The USCM Plan raises water quantity concerns. The Plan references the exploration operation potentially using water obtained and delivered from offsite for its exploration activities (up to 8,500 gallons per day). Yet there is no identification of where that water will be obtained and, hence, the water’s quality. Nor is there sufficient information about how such water will be disposed of or dispersed at the exploration site. Handling, disposal or dispersion of all water that will be used in drilling, have contact with drill fluids, or interact with underground (newly exposed) rock and possible contaminants needs to be accounted for.

In comments regarding the previous version of a Plan of Operations that this company submitted to the USFS, our organizations provided input on the handling and use of underground mine infiltration water that USCM expected to encounter. The concerns we raised then remain valid, despite USCM removing any reference to underground mine infiltration water from this iteration of its Plan. This Plan continues to propose exploration activities in one, existing underground mine adit and tunnel. In the previous Plan, the company planned to use infiltration water from that underground complex for its water needs under the very reasonable assumption that there will be infiltration water of unknown quantity and quality. All of that water has disappeared from this Plan. Between the previous and current Plan, has USCM conducted geohydrologic modeling or testing to assure that its underground activities will not encounter infiltration water? If not, then the Plan and a rigorous Environmental Assessment (EA) needs to estimate infiltration water quantity, its water quality (especially in regard to acid mine drainage potential and associated contaminants) and address its disposal or handling. USCM should be required to provide sufficient groundwater data or modeling to present a clear estimate of how much water is likely to enter and be captured in the underground portion of the operation throughout the life of exploration digging. Such groundwater modeling should also include estimated connection to and depletion of nearby surface waters (springs, seeps, wetlands, and, especially, Sheep Creek and West Fork of the Bitterroot). The company cannot simply omit any discussion and planned disposal or use of infiltration water from this Plan after clearly expecting to encounter it at same site and through the same activities detailed in the previous version of an exploration plan. This prompts the question: did groundwater conditions at the site change, or was the discussion of groundwater interception just removed? If there is no new hydrogeologic evidence, then the USFS cannot rationally assume that there are no longer any potential impacts to groundwater.

Consumptive water use should also be of particular concern to the USFS, given that the Forest has a reserved instream flow right in the West Fork of the Bitterroot below the proposed mine exploration site (19cfs above Painted Rocks dam, water right #76H 30120164). It is also of significant concern to many downstream and senior water rights holders in the Bitterroot watershed, where Montana state law currently prohibits new appropriations. Mont. Code Ann. § 85-2-344. The USFS must require USCM to provide detailed information on the source of water it intends to haul to and use at its exploration site, whether that water use is compliant with state law, whether any beneficial use of intercepted groundwater will occur, whether the company's water use may adversely affect any other water users, fisheries, state tribal instream flow rights as part of the Plan and an accompanying EA.

Relatedly, the USFS must consider the impacts of the proposed water use and probably groundwater interception on Painted Rocks Reservoir and the West

Fork of the Bitterroot River. 7 CFR 1b.3(f)(1)(iii). This water is integral to communities in the Bitterroot River watershed, including irrigators, municipalities, tribal members, and anglers. The USFS has not provided any justification for why the West Fork of the Bitterroot River and Painted Rocks Reservoir do not constitute special sources of water mandating a finding of extraordinary circumstances.

Water Quality

Similarly, we believe the current Plan lacks significant, necessary information on aspects of mine exploration that could impact water quality. Given the inevitable contact that operations will have with groundwater and its direct or indirect connections to surface water in Sheep Creek, the West Fork Bitterroot River, and Painted Rocks Reservoir. USCM should provide ample geochemistry data to assess amounts and forms of potential water pollutants that will be encountered during all phases of the full life of exploration. As discussed above, the USFS should also determine whether there are special sources of water potentially impacted by the project. 7 CFR 1b.3(f)(1)(iii). An initial review of the surface sampling USCM has done at the site reveals that there are potential concerns with asbestos, arsenic, lead, selenium, thorium (or other radioactive material), and pyritic material. The latter, which is the geochemical culprit in creating acid mine drainage, should be given particular attention. Likely there are other potential contaminants that thorough geochemical analysis of existing samples could provide valuable information on. As with water quantity impacts, any deterioration of water quality in Sheep Creek, nearby tributaries, and downstream waterways puts at risk this unique, native fishery. USCM has data from previous sampling and previously provided those data on its website. Those data have disappeared from public view and are equally absent in the Plan of Operations. The Plan and a subsequent EA needs to analyze those data for all potential contaminants.

With no justification, the Plan states that: “no surface water or groundwater quality monitoring is necessary given the nature of the project and minimal surface disturbance (pg. 13, the Plan). How has USCM made this determination? And, regardless of the company’s determination, the USFS should require an EA analysis of potential surface and groundwater impacts, along with necessary monitoring to ensure water quality and quantity are being protected. Without these data and the requisite analysis, the USFS cannot reasonably conclude that the project will not have any significant environmental impacts or that extraordinary circumstances are absent.

Stormwater

Also related to water, USCM’s Plan contains insufficient information about estimated stormwater and any stormwater management system for the site. Stormwater forecasting, including 50- and 100-year precipitation (especially rain on snow) events should be part of an EA and inform the Plans surface water management infrastructure and actions. How the operation will manage

regular and historic stormwater flows must be clearly defined. An EA for the Plan should provide information on how stormwater may impact adjacent surface water quality and, hence, aquatic life for all seasons and life cycles.

Riparian Habitat

The Plan raises riparian habitat concerns. Despite the current Plan's emphasis on the use of helicopter flights to deliver materials to the exploration sites and haul materials away, there will still be significant haul traffic on Forest roads adjacent to the West Fork of the Bitterroot, which could necessitate road widening or maintenance. These activities hold the potential for degrading riparian habitat and causing sedimentation of nearby streams. These activities need to be well defined in the Plan and carefully evaluated in an EA. Similarly, hauling material from exploration activities carries the risk of spills into surface waters adjacent to haul routes (Forest Roads 91 and 5677, as well as Forest Service Trail 13862 – West Fork Road, Sheep Creek Road and Sheep Creek Trail, respectively). The Plan and EA need to grapple with the real risks of hauling potentially radioactive or contaminant-laden ore spilling into surface water.

Similarly, the Plan needs more information and clearly stated protections for the West Fork regarding the planned staging and handling of fuel, water and material at the proposed truck parking location along the stream. The Plan lists items that will be handled, staged and could possibly spill at the staging area or on the exploration sites that include diesel, gasoline, oils, grease, antifreeze, resin, blasting products, water treatment products and drill products. The chemical makeup of these are mostly accounted for in the appendices of the Plan and Table 4 "Hazardous Materials (pg. 16-17) provide the significant quantities of these potential contaminants that will be used, but it lacks a detailed, best management practices protocol for preventing spills into surface waters or how to handle such spills. The impacts of any potential spill needs to be addressed in a subsequent EA.

The best management practices for protecting water quality that are listed on pg. 13 of the Plan are generic. They lack any metrics relevant to the actual site, quantities of materials such as waste rock to be contained, or potential stormwater flows. For example, the Plan provides no detail on the height or durability of the proposed "silt fence" or "fiber rolls" that it lists as protective measures.

Waste Rock

The exploration described in USCM's Plan includes opening and expanding an existing adit. The likely amount of underground excavation and work involved in exploring an existing adit normally necessitates a much more detailed plan than the one USCM has provided. An independent calculation of waste rock that the development of the three adits that USCM previously proposed exploring would create, based on USCM's scant information about adit

dimensions, estimated more than 13,000 cubic yards of material being produced. Such an operation would likely cost tens of millions of dollars. Even with the current Plan's reduction to exploring a single adit, the amount of material that would likely be produced (at least 3,000 tons according to the Plan) is significant enough to warrant an EA-level analysis.

Even with only one adit identified for exploration, along with three surface drill pad sites, USCM will be creating and handling significant amounts of waste rock with, as yet, unknown types and quantities of potential contaminants. Based on the total potential quantity of material being handled, its unknown qualities, and the very near presence of both sensitive and ESA-listed native fish, the Plan warrants and EA from the USFS and should be evaluated as a mine exploration amendment under the Montana Metal Mine Reclamation Act, (MCA Section 82-4-332), rather than as a Small Miner Exemption (82-4-305). It appears that USCM is trying to keep its proposed mine site under 5 acres so that it might be evaluated under the latter – Small Miner Exemption Act – which would also minimize reclamation requirements. The USFS should determine whether there is any likelihood of phased permitting, whether additional amendments will follow, and whether the agency is being asked to, in effect, merely evaluate one incremental portion of a larger project.

Native Trout Fishery and Aquatic Resources:

Again, all concerns and recommendations MTU is sharing are in the interest of protecting water resources downstream for people and the unique aquatic ecosystem of this Bitterroot tributary. While we know that the Forest is well aware of this resource, there are some elements of the fishery that we think are worth highlighting and, likely, deserve more baseline data collection by USCM as part of evaluating its potential impacts from exploration mining in this location and, certainly, as part of an EA required by the USFS.

The upper West Fork of the Bitterroot is home to a metapopulation that is “one of the largest connected westslope cutthroat populations above a fish barrier (Painted Rocks Dam) in the state of Montana. It is a very important population from a westslope cutthroat trout conservation perspective (FWP, 2025 “Federal Aid Job Progress Report, Federal Aid Project Number: F-113,” pg. 49).” That metapopulation includes both resident and migratory WCT. Despite rainbow trout and Yellowstone cutthroat stocking in the past, genetic tests from 2024-2025 show that the West Fork WCT population still have 99.9% or higher genetic purity, with a very high genetic diversity within that population. The upper West Fork WCT population is a key focus within MT Fish, Wildlife and Park's (FWP) Conservation Strategy for the species in western Montana. As FWP's fishery biologist for the Bitterroot, Jason Lindstrom recently said:

[The upper West Fork] is the best thing we have going in the Region by far. We have 180 miles of genetically pure cutthroat habitat with a very high degree of

genetic diversity amongst them. This is a really, really important cutthroat population. We are calling this a Mega Meta population, which means it's just a giant connected population. This is something that we really want to take care of the best we can. (*Bitterroot Star*, January 20, 2026).

The upper West Fork is also home to a relatively robust population of bull trout, with both resident and adfluvial populations that migrate between Painted Rocks Reservoir and upstream tributaries. FWP sampling and U.S. Fish and Wildlife Service recovery plans for bull trout highlight the value of the West Fork above Painted Rocks as Core Area. Sampling data for Sheep Creek in 2023 revealed that the stream's fishery composition included 56% WCT and 38% bull trout. Similar WCT and bull trout percentages were found in the West Fork near Sheep Creek.

Less is known about the aquatic insect populations that sustain these fisheries in this system, though a recent graduate-level research study points to healthy native insect populations that warrant further documentation. In addition to performing a thorough baseline study of Sheep Creek and upper West Fork fisheries, USCM should be compelled to develop baseline data for macroinvertebrates and amphibians, at the least. For a mine exploration plan to reckon with potential environmental impacts, it has to include legitimate baseline data on the environment that might be impacted and a plan to monitor those impacts. The current USCM Plan contains none of this.

Nor is it clear to what extent the agency or the company consulted with the U.S. Fish and Wildlife Service, the Montana Department of Fish, Wildlife & Parks, or the Confederated Salish and Kootenai Tribes in deciding to proceed under a CE and the underlying determination that no extraordinary circumstances existed. These entities would be able to provide the necessary information on the fishery, aquatic habitats, and the human investment in those resources that must be considered before proceeding under a CE.

Because of the insufficient data and uncertain effects of this exploration, the USFS cannot reasonably conclude that there are no potentially significant effects to bull trout or WCT. This uncertainty should prompt a finding of an extraordinary circumstance under FSH 1909.15. The bottom line is that regardless of the footprint of the exploration activities, the near presence and extremely high value of the existing WCT and bull trout populations in the West Fork of the Bitterroot, as state and federally identified sensitive and ESA species (relatively) warrants an EA of this Plan.

Monitoring and Reclamation:

Given the concerns and values described above, USCM should be required to monitor flow and water quality in nearby groundwater, surface water bodies

(especially in Sheep Creek adjacent to the site), along with fishery dynamics (population, size/age class, health, etc) and other aquatic organisms throughout the life of any mine exploration. Additionally, USCM should be responsible for monitoring potential water quality and aquatic impacts for at least 5-years post-project to ensure that reclamation is sufficient. A monitoring plan should be required to be elucidated in the exploration Plan. This would entail coordination and commitments with not only the USFS but MT FWP (fisheries) and Montana Department of Natural Resources and Conservation (on instream flow monitoring) and Montana Department of Environmental Quality (on water quality elements), along with mutually agreed upon contactors to provide independent sampling and review of results.

Cultural and Recreational Resources

Other areas of concern, for which the current Plan lacks any information are impacts to recreational use and cultural resources. The West Fork and Sheep Creek are important and well-used areas for fishing, hunting and other outdoor recreation. The Plan and an EA should address impacts to the public and these activities caused by helicopter flights, haul trucks, road work and ongoing exploration operations. Cultural resources in the area should also be thoroughly evaluated and protected from any mine-related operations. USCM should be compelled to conduct class III cultural and historic resource surveys (by independent, qualified third-party) and the USFS should consult tribal governments (especially Confederated Salish and Kootenai Tribes) regarding the Plan, as per Executive Order 13175. As with the existence of ESA species, the significance of cultural resources and Tribal consultation trigger the necessity for an EA regarding this exploration Plan.

Thank you for considering our perspectives on this issue. Please let me know if you have questions or would like more detail about these perspectives. We appreciate all your work to ensure that any Plan for operations on the Forest are given the proper and legal scrutiny.

Sincerely,



David Brooks
Executive Director



Christine Brissette
Bitterroot Project Manager
Trout Unlimited